

**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU**

NEPR

Received:

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IN RE: ACCELERATED EVALUATION
OF RENEWABLE ENERGY AND
ENERGY STORAGE PROJECT
PROPOSALS TO SECURE FEDERAL
INVESTMENT TAX CREDITS (ITCs)

CASE NO.: NEPR-MI-2025-0005

MOTION IN COMPLIANCE WITH TO JUNE 12, 2026, RESOLUTION AND ORDER

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority ("PREPA"), through its counsel, and respectfully informs and requests as follows:

1. On June 12, 2026, the Energy Bureau issued a Resolution and Order regarding Proponent No. 7. In said Resolution and Order, the Energy Bureau determined that the issues previously identified regarding site control, property rights, and permitting had been sufficiently clarified and that the record supported the continuation of the contract negotiation process between PREPA and Proponent No. 7. The Energy Bureau further directed the parties to continue negotiations in good faith, resolve any remaining contractual issues, and determine whether mutually acceptable agreements could be reached for the proposed Solar PV and BESS facilities through separate PPOA and ESSA agreements. The parties were directed to complete negotiations within seven (7) days from notice of the Resolution and Order.

2. Since the issuance of the Resolution and Order, PREPA and Proponent No. 7 have continued to negotiate and exchange communications in an effort to comply with the Energy Bureau's directives. Consistent with the PREB Order, PREPA provided the draft

Power Purchase and Operating Agreement (PPOA) and Energy Storage Services Agreement (ESSA) contractual framework previously approved for Tranche 4 RFP resources.

3. As relevant background, on October 3, 2023, PREPA and Proponent No. 7 entered into a Settlement Agreement, which was subsequently approved by the Puerto Rico Energy Bureau and later validated by the Puerto Rico Court of Appeals. The Settlement Agreement relates to the Solar PV project and establishes the framework governing the negotiation of the applicable PPOA. Although the Settlement Agreement predates and is separate from this accelerated procurement process, Proponent No. 7 elected to submit a proposal in this proceeding for the same Solar PV project. Accordingly, PREPA and Proponent No. 7 are negotiating the Solar PV project pursuant to the Settlement Agreement, while separately addressing the Energy Storage Services Agreement consistent with the Energy Bureau's June 12, 2026 Resolution and Order.

4. On June 24, 2026, Proponent No. 7 submitted a redlined version of the 2020 draft PPOA, consistent with the contractual framework established in the Settlement Agreement. That same day, PREPA forwarded the redlined PPOA to LUMA, in its capacity as the Transmission and Distribution Operator, for review. PREPA is currently awaiting LUMA's comments. Separately, Proponent No. 7 is continuing its review of the Energy Storage Services Agreement previously approved for Tranche 4 RFP resources, pursuant to the Energy Bureau's June 12, 2026 Resolution and Order.

5. PREPA wishes to emphasize that the parties have not ceased their efforts. To the contrary, they have continued exchanging communications and advancing the negotiation process to the extent practicable under the circumstances. The parties remain committed

to completing the negotiations as expeditiously as possible and to promptly informing the Energy Bureau of the outcome of those negotiations.

6. Accordingly, PREPA respectfully requests an extension of ten (10) days, to complete the negotiations required by the Resolution and Order and to submit the corresponding filing to the Energy Bureau.

7. This request is made in good faith, is not intended to cause unnecessary delay, and will facilitate the completion of meaningful negotiations consistent with the Energy Bureau's directives.

8. PREPA and Proponent No. 7 respectfully requests confidential treatment for the settlement agreement submitted herewith. This settlement agreement constitute predecisional and deliberative materials generated in the course of ongoing negotiations and reflect internal analyses, assessments, recommendations, and proposed contractual positions that remain subject to review and modification. Public disclosure at this stage would impair the integrity of the deliberative and decision-making process, undermine the parties' ability to negotiate effectively and in good faith, and potentially prejudice the successful completion of the transactions. Accordingly, the settlement agreement is protected from disclosure under the deliberative process privilege and should remain confidential until the negotiation, approval, and execution processes have been completed.

9. Although documents held by public corporations such as PREPA are generally presumed to be public, access to such documents is not absolute. The Puerto Rico Supreme Court has recognized that only documents that truly enjoy public status are subject to mandatory disclosure. Bhatia Gautier v. Gobernador, 199 D.P.R. 59, 82 (2017); Ortiz v. Director de la Administración de los Tribunales, 152 D.P.R. 161 (2000).

10. According to Bhatia Gautier v. Gobernador, the government may validly withhold information when (i) a law so authorizes; (ii) the information is protected by evidentiary privileges; (iii) its disclosure may harm third parties' fundamental rights; (iv) it identifies a confidential source; or (v) it qualifies as "official information" under Rule 514 of Evidence. *Id.* at 83.

11. The Puerto Rico Supreme Court has expressly held that "documents that pertain to pre-decisional and deliberative processes may be shielded from public disclosure." *Id.* at 86. This deliberative process privilege protects materials that are (i) pre-decisional—created before the agency's final determination, and (ii) deliberative—reflecting internal opinions, assessments, and recommendations critical to policy formulation.

12. In addition, Article 4(iv) of the Puerto Rico Government Open Data Act, Act 122-2019, codified at 3 L.P.R.A. § 9894, explicitly exempts from disclosure "[i]nformation and official information related to decision-making in public policy-making processes, as recognized by case law," including deliberative materials.

13. Below is a summary of the information for which PREPA seeks confidential treatment:

File	Summary of Legal Basis for Confidential Treatment
Settlement Agreement	Deliberative material

14. PREPA respectfully requests that the Energy Bureau take notice of the abovementioned and approve the request for confidential treatment of the information submitted with this Motion.

WHEREFORE, PREPA respectfully requests the Energy Bureau to: (i) take **NOTICE** of the foregoing; (ii) **DEEMS** PREPA in compliance with the June 12 Resolution and Order, and (iii) **GRANT** confidential treatment to the draft contract included.

In San Juan, Puerto Rico, this 26 day of June 2026.

CERTIFICATE OF SERVICE

We hereby certify that this document was filed with the Office of the Clerk of the Energy Bureau through its Electronic Filing System at <https://radicacion.energia.pr.gov/login>.

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